IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.06.2007

CORAM:

THE HON'BLE MR.JUSTICE M.CHOCKALINGAM

CRP.NPD.NO.3647 of 1999

Mohammed Sultan(died)
2.M.Saidhoor Bivi
3.M.Peer Mohideen
4.M.Abdul Ali
5.S.M.Sara Bivi ...Petitioners/Tenant.

Petitioners 2 to 5 are brought on record
as LRs. of the deceased sole petitioner
vide order of Court dated 1.10.2005 and made
in CMP.No.4021 of 2001

Vs.

N.Vedantham ...Respondent/Landlod.

This Civil Revision petition is filed under Section 25 of Tamil Nadu Buildings [Lease and Rent Control] Act 18 of 1960 as amended by Act 23 of 1973 and Act 1 of 1980 against the judgment and decree of the Subordinate Judge and Rent Control Appellate Authority, Maduranthagam dated 26.8.1999 in RCA.No.1 of 1998 modifying the order of eviction of the District Munsif and Rent Controller of Maduranthagam dated 10.1.1995 in RCOP.No.8 of 1993.

For Petitioners: Mr.V.Nicholos
For Respondents: Mr.S.Sridhar

O R D E R

Challenging the order of the Rent Control appellate authority, Maduranthagam made in RCA.No.1 of 1998 affirming the order of the rent controller of the said place in RCOP.No.8 of 1993 filed by the respondent/landlord seeking eviction of the petitioner/tenant on the ground of demolition and re-construction, the above Civil Revision petition has been filed.

2. The respondent/landlord sought eviction stating that the he is the owner of the entire property inclusive of the superstructure, a hut. It was let out to the petitioner herein for non-residential purpose viz. iron scrap business and that he is continued to be the tenant by making payment of rent and he has often committed wilful default in the payment

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of rent. The petitioner/landlord has retired from service and intents to settle down at his native town of Madurantakam. Hence, the petitioner bonafide requires the premises for the purpose of demolition and re-construction.

3. Originally, on enquiry, the rent controller, agreed with the case of the petitioner, passed an order of eviction on the ground of owner's occupation. Aggrieved tenant took it on an appeal and it was placed before the Rent Control appellate authority of the said place in RCA.No.11 of 1998. After enquiry of the appeal, a report was called for from the rent Controller to record a finding under Section 14(1)(b) of the Tamil Nadu Buildings (Lease and Rent Control) Act (hereinafter referred to as the Act). Accordingly, the rent controller made further enquiry and record a finding that the site belonging to the landlord/petitioner and the superstructure was raised by the tenant. The Rent Control Appellate authority, after hearing the appeal, came to the conclusion that both the land and the superstructure belonging to the landlord/petitioner and also there existed a ground for eviction and accordingly ordered as the same. Aggrieved respondent in the original petition has brought forth the revision before this Court.

4. Advancing his argument on behalf of the revision petitioner, learned counsel for the petitioner would submit that in the instant case, the order of the rent control appellate authority should be set aside on two grounds; firstly there was an undertaking given by the petitioner/landlord as stipulated under Section 14(1)(b) of the Act which is mandatory and in the absence of the same, there is no other option than to dismiss the same. Added further, in the instant case, the Rent Control Appellate Authority has not recorded a finding that the building was bonafidely required for the purpose of demolition and reconstruction, but has observed that it was required for certain modification in the superstructure. Under the said circumstances, it cannot be stated that the appellate authority has found the reasoning in favour of the landlord in passing an order of eviction and hence the order of the appellate authority has got to be set aside.

5. The Court heard the learned counsel for the respondent on the above contentions.

6. After careful perusal on the rival submissions made, I am of the considered opinion that the order of the appellate authority has got to be sustained. It was a petition filed under Section 14(1)(b) of the Act seeking eviction of the tenant on the ground of demolition and reconstruction. It is pertinent to point out that what was found in the site was only hut. Admitting the ownership of the landlord, the rents have been paid in the past and when eviction was sought for , the main defence of the petitioner/tenant was that he is the owner of the superstructure and the site is belonging to the landlord. It is pertinent to note that the respondent has failed to prove the title in respect of the

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superstructure. Apart from that, the contention put forth by the learned counsel for the revision petitioner that the undertaking has not been given under Section 14(1)(b) of the Act , cannot be countenanced for the simple reason that affidavit has been filed in extenso by the landlord before the rent controller. Further, in the instant case, the appellate forum has not stated that the landlord has got superstructure which has got to be demolished and reconstruction has to be done, but has pointed out that certain modifications have to be made. As seen from the material, a mistake has been crept in. What is available is only hut and it has clearly averred in the application that it was bonafidely required for the purpose of demolition and reconstruction. Under the said circumstances, this cannot be a ground as sought for by the petitioner. Under the circumstances, this Court is of the considered view that the order of the Rent Control Appellate Tribunal has got to be sustained. Accordingly, the revision petition fails and the same s dismissed. No costs. Consequently, connected M.Ps. are also dismissed.

7. Taking into consideration the fact that the revision petitioner is carrying on a business viz., Iron scrap, a reasonable time should be given to the tenant to vacate and hand over the possession hence the period is fixed as nine months from the date of this order.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

VJY

To
1. The Subordinate Judge and Rent Control Appellate Authority,
Maduranthagam.
2. The District Munsif and Rent Controller,
Maduranthagam.
Copy To: The Record Keeper,
VR Section, High Court, Madras.
+ 1 CC To Mr. S.Sridhar, Advocate SR NO.31611
+ 1 CC To Mr. V.Nicholas, Advocate SR NO.31585

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